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In re Application of	:	
CHRISTENSEN et al.	:	
Application No.: 09/806,563	:	DECISION on
PCT No.: PCT/DE99/03101	:	
Int. Filing Date: 27 September 1999	:	RENEWED PETITION
Priority Date: 30 September 1998	:	
Attorney Docket No.: 112740-201	:	UNDER 37 CFR 1.47(a)
For: METHOD FOR TESTING SUBSCRIBER LINES	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 05 July 2005 in the United States Patent and Trademark Office (USPTO). Applicants' request for two month extension of time is granted.

BACKGROUND

On 17 November 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)&(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date, were required. The NOTIFICATION set a two-month extendable period for response.

On 19 April 2004, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), and a statement of facts by Desiree Gobel.

On 29 June 2004, a decision dismissing the petition was mailed to applicants indicating that the declaration was not in compliance with 37 CFR 1.497(a) & (b) and applicants did not provide sufficient proof that the non-signing inventor refused to sign the application.

On 14 March 2005, applicants forwarded, via facsimile, a copy of a response to the decision originally filed on 29 December 2004 and received in the USPTO on 04 January 2005.

On 29 March 2005, a decision dismissing the petition was mailed indicating, *inter alia*:

The declaration filed 15 March 2005 is identical to the declaration filed with the 19 April 2004 petition and is not in compliance with 37 CFR 1.497(a)-(b). The declaration includes three "Page

4". As noted in the 29 June 2004 decision, this suggests that all pages of the declaration were not present at the time of execution for each inventor, thus rendering the execution improper. A copy of the entire declaration submitted to applicant(s) for signing must be provided. Each executed declaration must identify all of the inventors and the citizenship, residency and mailing address of all of the inventors. Also, each submitted declaration must be complete, even if executed by only one of the inventors.

On 05 July 2005, applicant filed a renewed petition under 37 CFR 1.47(a) along with five executed declarations including a declaration executed by the previously nonsigning inventor Svend Christensen.

DISCUSSION

With the submission of a declaration executed by the previously non-signing inventor Svend Christensen the petition under 37 CFR 1.47(a) is now moot.

Petitioner presents five declarations; each of the declarations filed 05 July 2005 is executed by a single inventor. Four of the declarations are composed of four pages which identify all of the inventors and provide the citizenship, residency and mailing address of the inventors. However, the declaration executed by the previously nonsigning inventor Svend Christensen does not contain a page 4 and fails to identify Ulrich Lieflander and Dr. Hans-Werner Rudolf as inventors. The declaration is not in compliance with 37 CFR 1.497(a)-(b). As noted in the earlier decisions, this suggests that all pages of the declaration were not present at the time of execution for the inventor, thus rendering the execution improper. A copy of the entire declaration submitted to applicant(s) for signing must be provided. The executed declaration must identify all of the inventors and the citizenship, residency and mailing address of each inventors.

Contrary to applicant's contention that "the incorporation of 'page 4' at the bottom of the document is incidental to the overall document", page 4 identifies only three of the five inventors. This is not incidental to the declaration and is required. See 37 CFR 1.497(a) and (b) and 1.63(a)(3).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **MOOT**. For the reasons stated above, the declaration executed by Svend Christensen is unacceptable and is not in compliance with 37 CFR 1.497(a)-(b).

A proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT

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Legal Administration.

A handwritten signature in black ink, appearing to read "Cynthia M. Kratz". The signature is fluid and cursive, with the first name being the most prominent.

Cynthia M. Kratz

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